REMARKS

Applicants respectfully request further examination and reconsideration in view of the instant response. Claims 1-36 remain pending in the case. Claims 1-36 are rejected. The Examiner is thanked for performing a thorough search.

Claims 1, 12, 17, 25, 30 and 33 have been amended. Support for the Amendments to the independent claims can be found, among other places, at paragraph 00032 of the instant application serial no. 10/667,469, which states,

> Special capabilities conferred by the client plug-in 302 include the ability to obtain various sets of information (again, Op_Stat_Info) regarding the operational status of one or more plug-ins, e.g., 301, plugged-in/loaded on one or more hosts, respectively, e.g., 304. Because the plug-in 312 requests and receives information from the plug-in 318, the plug-in 312 can be thought of as a client and the plug-in 318 can be thought as a server relative to each other, hence they are dubbed the client plug-in 312 and the server plug-in 318.

DRAWINGS

In paragraph 2 the Office Action objected to Figures 2 and 3. Formal replacement Figures 2 and 3 are filed herewith.

35 U.S.C. §101

CLAIMS 1-16, 25-29 and 33-36

In paragraph 3, the Office Action rejected Claims 1-16, 25-29 and 33-36 under 35 U.S.C. 101.

The Office Action appears to reject independent Claims 1 and 12 for being directed to a computer program alone.

First, specifically concerning the Office Action's statement that software is not statutory. In the 1970s, the USPTO avoided granting patents on inventions relating to software. In 1981 the Supreme Court forced the PTO to change its position in the Diamond v. Diehr case. Another landmark case that clarified the patentability of

computer software is State Street Bank & Trust v. Signature Financial Group issued by the Federal Circuit. MPEP 2106 provides the PTO's guidelines for determining the patentability of computer software. Clearly, the PTO would not provide guidelines for determining the patentability of computer software if computer software was not statutory subject matter. Applicant respectfully submits that Claims 1-9 should be evaluated by their features not by what those claims incidentally cover.

Second, anyone of ordinary skill in the art would know that a system as recited by Claim 1 could be implemented using hardware, software, firmware, or a combination thereof. Further, there are numerous examples in the specification of various parts of system embodiments including hardware, software, etc... For example, paragraph 0023 states, "Again a plug-in is typically a software module that tightly integrates with a larger program or larger system to add one or more special capabilities to the larger system...Alternatively, the plug-in can be a hardware unit or a combination of a hardware unit and software module." Therefore, the embodiments of Claims 1 and 12 are not limited to software but reads on hardware, software, firmware or a combination thereof.

Applicant submits that an embodiment that recites tangible results is patentable. Applicant respectfully submits that a "tangible result" as defined in the MPEP appears to be a tangible result that is produced by the invention as claimed, not produced as in "outputting...in a tangible form" or being tied to a tangible medium. That is, the "tangible form" language provided by the Examiner appears to be merely a superfluous method of packaging the tangible result presently produced by the Invention (emphasis added).

Specifically, Applicant has reviewed related case law and the MPEP and do not understand the "produce a tangible result" language to be limited to an output such as a piece of paper, display on a monitor or being tied to a tangible medium.

For example, In re State Street , 149 F.3d 47 USPQ2d 1596, 1600-1601 (Fed. Cir. 1998), it was held that the transformation of data, representing discrete dollar

amounts, by a machine through a series of mathematical calculations into a final share price, constitutes a practical application of a mathematical algorithm, formula, or calculation, because it produces "a useful, concrete and tangible result"--a final share price momentarily fixed for recording and reporting purposes and even accepted and relied upon by regulatory authorities and in subsequent trades (emphasis added).

Furthermore, the MPEP clearly states in the "Tangible Result" section at MPEP 2106 IV.C.2(2)b that the tangible requirement does not necessarily mean that a claim must either be tied to a particular machine or apparatus or must operate to change articles or materials to a different state or thing. However, the tangible requirement does require that the claim must recite more than a 35 U.S.C. 101 judicial exception, in that the process claim must set forth a practical application of that judicial exception to produce a real-world result. *Benson*, 409 U.S. at 71-72, 175 USPQ at 676-77 (invention ineligible because had "no substantial practical application."). "[A]n application of a law of nature or mathematical formula to a … process may well be deserving of patent protection." *Diehr*, 450 U.S. at 187, 209 USPQ at 8 (emphasis added); see also *Corning*, 56 U.S. (15 How.) at 268, 14 L.Ed. 683 ("It is for the discovery or invention of some practical method or means of producing a beneficial result or effect, that a patent is granted . . ."). In other words, the opposite meaning of "tangible" is "abstract." (emphasis added)

Therefore, Applicant respectfully submits that the present invention overcomes the tangible non-statutory subject matter requirements of 35 U.S.C. §101 when the invention produces a real-world result, not when the invention outputs or displays the produced tangible real-world result or is tied to a tangible medium. That is, Applicant understands tangible result to refer to a result that is capable of being understood and evaluated, and therefore regarded as real.

For the above reasons, Applicant respectfully submits that Claim 1 produces the useful, concrete and tangible result of "interface means for interfacing between the core means and a calling entity with respect to operational status of the plug-in, wherein the operational status is provided to a second plug-in that requested the operational status from the plug-in" and independent Claim 12 produces the useful, concrete and tangible

result of "A first plug-in...the first plug-in comprising:...interface means for interfacing between the core means and one or more second plug-ins loaded on one or more external, relative to the host, entities, respectively, regarding respective operation status of the one or more second plug-ins." That is, the embodiments recited by Claims 1 and 12 produce the tangible result of providing operational status. Moreover, the result, e.g., providing the operation status..., is capable of being understood and evaluated, and therefore should be regarded as real.

Moreover, Applicant respectfully submits that tying instructions to a tangible medium is immaterial as to whether or not the results are tangible.

Therefore, Applicant respectfully submits that independent Claims 1 and 12 is patentable under 35 U.S.C. 101 in that Claims 1 and 12 recite embodiments that are directed to statutory subject matter, for at least the reasons, that the embodiments recited by Claims 1 and 12 are is not abstract, provides a result that is capable of being understood and evaluated, and produces a real world result. Claims 2-11 should be patentable by virtue of their dependence on the allowable base Claim 1. Claims 13-16 should be patentable by virtue of their dependence on the allowable base Claim 12.

The Office Action asserts that Claims 25 and 33 must recite instructions stored on a computer readable storage medium. Since as Applicant's have already pointed out that tying instructions to a tangible medium is immaterial as to whether or not the results are tangible, Applicant traverses the rejection of Claims 25-29 and 33-36 has been addressed in that independent Claims 25-29 and 33-36.


## 35 U.S.C. §102(e)

CLAIMS 1-36

Claims 1-36 are rejected under U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,254,814 by Cormier et al., (hereinafter referred to as "Cormier"). Applicant has reviewed the cited reference and respectfully submits that the embodiments of the

present invention as recited in Claims 1-36 are neither taught nor suggested by Cormier.

Independent Claim 1 recites,

A plug-in to a host, the plug-in providing one or more special capabilities to the host, the plug-in comprising:
core means for conducting typical operation of the plug-in by which the one or more special capabilities are carried out; and
interface means for interfacing between the core means and a calling entity with respect to operational status of the plug-in, wherein the operational status is provided to a second plug-in that requested the operational status from the plug-in.

MPEP §2131 provides:
"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Cormier states at Col. 3 lines 5-17 with regards to a conventional software application requesting video playback,

...the conventional software application allows a user to direct the application to download the required video playback plug-in module. However, the conventional software application may be unaware that the video playback plug-in module also requires the use of an audio playback plug-in module that may not be resident within the computer system in which the conventional software application operates. As a result, upon operation of only the video playback plug-in service, the video data is either reproduced without sound, or the video playback plug-in service may be unable to playback the video at all due to an inability to operate without the use of the audio playback plug-in service.

To address this problem Applicant understands Cormier to teach determining dependencies between the services provided by the plug-ins so that a full functional requested service can be provided.

In order to determine dependencies between services provided by plug-ins as a part of providing a particular service to an application, executing as a client process or a server process, Applicant understands Cormier to teach a plug-in manager 150 associated with a server computer system 120 (Figure 1). For example, referring to Col. 6 lines 16 to 35, Cormier states,

> As an example, when a software application such as a client or server process requires access to one or more plug-in modules for use of particular plug-in services offered by those plug-in modules, a plug-in manager configured according to embodiments of the invention is able to obtain the identity of the plug-in modules for which access is requested. The plug-in manager can then instantiate each plug-in module into an enabled state and can query a dependency interface associated with each plug-in module in order to determine plug-in dependencies associated with that plug-in module. In response to a dependency query, a plug-in module can provide, to the plug-in manager, a list of services provided by that plug-in module as well as a list of services required by that plug-in module. By querying all plug-in modules identified by a software application ( and any plug-in modules which those plug-in modules require), the plug-in manager can determine all services that are required by or provided by the complete set of plug-in modules that will need to operate to provide the required services requested by the application.

Therefore, Applicant understands Cormier's plug-in manager 150, which is associated with Cormier's server 120, to interact with plug-ins in a plug-in database 155 to determine dependencies between various plug-ins in order to provide a service requested by a client process 115, which resides on client computer system 110, or a server process 145, which resides on a server computer system 120.


> Referring to Col. 8 line 63 to Col. 9 line 2, Cormier states,

> Once each plug-in module 160 is operating in the enabled state, the plug-in manager 150 can provide a dependency query 171 to each plug-in module 160 to determine what services that plug-in module 160 provides and to also determine what services that plug-in module 160 may require to properly operate. In response to such a query, each plug-in module 160 can provide a dependency response 172 back to the plug-in manager process 150.

Applicant does not understand Cormier's information describing the dependencies between services required by a particular plug-in module to teach, describe or suggest, "operational status" (emphasis added) of a plug-in as recited by independent Claims 1,

12, 17, 25, and 33.  Further, Applicant does not understand Cormier's information describing dependencies between services to be provided by one of Cormier's plug-ins in response to another of Cormier's plug ins requesting the information.

> Referring to Col. 14 lines 25-30, Cormier states,
>
> In other words, if a plug-in module 160 saves state information when it exits or terminate operations, it may use this state information to continue or resume processing where left off since the plug-in manager of the embodiment of this invention is able to save this state and is able to return it to the plug-in module 1609 upon its next operation.

Based on Col. 14 lines 25-30, Applicant understands Cormier's <u>manager</u> 150, which is not associated with one of Cormier's plug-ins, to <u>provide</u> state information <u>to</u> one of Cormier's <u>plug-ins</u>.  Cormier's plug-in stores the information and uses the stored information from the manager to determine where the plug in has left off.  Therefore, Applicant does not understand Cormier to teach, describe or suggest "a plug-in to a host…comprising…a core means…interface means for interfacing between the core means and a calling entity with respect to operational status of the plug-in, wherein the <u>operational status is provided to a second plug-in that requested the operational status from the plug-in</u>," (emphasis added) as recited by Claim 1.

For at least the reason that Applicant does not understand Cormier to teach "A plug-in to a host…operational status is provided to a second plug-in that requested the operational status from the plug-in," Applicant respectfully submits that the embodiment recited by Claim 1 is patentable.  For similar reasons, Applicant understands the embodiments recited by independent Claims 12, 17, 25, 30 and 33 to be patentable in that Claim 12 recites "a <u>first</u> plug-in…<u>comprising</u>…<u>core means</u>…<u>interface means</u> for interfacing <u>between</u> <u>the core means</u> <u>and</u> one or more <u>second plug-ins</u> loaded on one or more external, relative to the host, entities, respectively, <u>regarding respective operation status</u> of the one or more second plug-ins," Claim 17 recites "wherein the operational status is provided to a second plug-in that requested the operational status from the plug-in," Claim 25 recites, "<u>including instructions execution of which by a host produces a first plug-in</u>, the first plug-in providing one or more special capabilities to the host, the

machine-readable <u>instructions comprising</u>: <u>a core code segment</u> for conducting typical operation of the first plug-in by which the one or more special capabilities are carried out; and <u>an interface code segment</u> for interfacing <u>between</u> <u>the core code segment</u> <u>and</u> one or more <u>second plug-ins</u> loaded on one or more external, relative to the host, entities, respectively, regarding respective operational status of the one or more second plug-ins," (emphasis added) Claim 30 recites, "a <u>first plug-in</u> to a host, the plug-in providing one or more special capabilities to a first host, the method comprising: <u>obtaining operational status information (Op_Stat_Info) from one or more second plug-ins</u> loaded on one or more external, relative to the host, entities, respectively, " (emphasis added) and Claim 33 recites "…a plug-in to a host…operational status is provided to a second plug-in that requested the operational status from the plug-in."

Claims 2-11 depend on Claim 1. Claims 13-16 depend on Claim 12. Claims 16-24 depend on Claim 17. Claims 26-29 depend on Claim 25. Claims 31 and 32 depend on Claim 30. Claims 34-36 depend on Claim 33. The dependent claims include all of the features of their respective independent claims. Further the dependent claims include additional features which further make them patentable. Therefore, the dependent claims should be patentable for at least the reasons that the respective independent claims should be patentable.

The dependent claims recite additional features which further make them patentable. For example, Claims 4, 5, 9-11, 15, 16, 28, 29, and 36, among others, recite embodiments which Applicant believes are not taught by Cormier.

## CONCLUSION

Based on the arguments presented above, Applicant respectfully asserts that Claims 1-36 overcome the rejections of record and, therefore, Applicant respectfully solicits allowance of these Claims.

The Examiner is invited to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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